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14 Attorneys for Plaintiff
SAP AKTIENGESELLSCHAFT

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION

18 SAP AKTIENGESELLSCHAFT, a
19 German corporation,

20 Plaintiff,

21 v.

22 i2 TECHNOLOGIES, INC., a Delaware
corporation,

23 Defendant.

Case No. 4:07-cv-04187 SBA

**DECLARATION OF TODD R. GREGORIAN
IN SUPPORT OF SAP'S MOTION FOR
LEAVE TO FILE A SECOND AMENDED
COMPLAINT**

Judge: Hon. Sandra B. Armstrong
Date: April 8, 2008
Time: 1:00 p.m.
Courtroom 3, Third Floor

24
25 I, Todd R. Gregorian, declare as follows:

26 1. I am an attorney admitted to practice before this Court. I am an associate in the
27 law firm of Fenwick & West, LLP, which represents Plaintiff SAP Aktiengesellschaft ("SAP") in
28 this action.

2. I submit this declaration in support of SAP's Motion for Leave to File a Second Amended Complaint. I have personal knowledge of the matters set forth in this declaration and, if called upon to do so, could and would testify competently as to the matters set forth herein.

3. On August 15, 2007, SAP filed its Complaint against i2 alleging patent infringement of United States Patents Nos. 6,407,761 and 6,750,766 (collectively, the "patents-in-suit").

4. On September 14, 2007, SAP filed its First Amended Complaint. SAP's First Amended Complaint deleted the claim for willful infringement that had been alleged in SAP's Complaint.

5. SAP is seeking monetary damages, interest and costs, and injunctive relief based on, among other things, i2's use and sales of infringing products

6. On October 12, 2007, i2 filed its Answer denying the claims in the First Amended Complaint and asserting counterclaims against SAP for declarations of non-infringement and patent invalidity.

7. SAP answered the counterclaims on October 31, 2007 and denied i2's allegations.

8. Very little discovery has been conducted in this matter to date. SAP served a first set of written discovery, including interrogatories and requests for production, on November 30, 2007.

9. i2 served written responses to the requests for production on January 2, 2008, but has produced no documents in response to these requests.

10. i2's minimal responses to SAP's six interrogatories are the subject of an ongoing meet and confer process.

11. i2, for its part, has not yet served SAP with any discovery.

12. SAP and i2 served their preliminary infringement and invalidity contentions relating to the patents-in-suit pursuant to Patent Local Rules 3-2 and 3-4 on January 11, 2008 and February 19, 2008 respectively.

1 13. SAP has nearly 300 issued United States patents. SAP recently become aware that
2 in addition to the patents-in-suit, i2 also infringes United States Patent No. 7,222,369.

3 14. In order to efficiently pursue its claims against i2 in one action, SAP now seeks
4 leave to file a Second Amended Complaint.

5 15. On February 28, 2008, SAP's counsel contacted i2's counsel by email, and
6 inquired whether i2 would stipulate to the amendment that is the subject of this motion.
7 Specifically, SAP's counsel inquired whether i2's counsel would stipulate to the amendment,
8 offering to extend the claim construction schedule by approximately two months, in order to
9 allow i2 to search for prior art and prepare its invalidity contentions. The parties were unable to
10 reach agreement on this issue.

11 16. SAP now seeks leave to amend and is not seeking to delay the litigation or
12 otherwise act in bad faith.

13 17. Attached hereto as Exhibit A is the SAP's [Proposed] Second Amended
14 Complaint.

15 18. Attached hereto as Exhibit B is a DeltaView comparison of SAP's First Amended
16 Complaint and SAP's [Proposed] Second Amended Complaint.

17 19. Attached hereto as Exhibit C is a true and correct copy of the Court's January 18,
18 2008 scheduling order.

19 I declare under penalty of perjury under the laws of the United States of America and the
20 State of California that the foregoing is true and correct, and that this declaration was executed
21 this 29th day of February 2008 in Mountain View, California.

1 Dated: February 29, 2008

FENWICK & WEST LLP

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3 By: /s/ Todd R. Gregorian
4 Todd R. Gregorian

5 Attorneys for Plaintiff SAP Aktiengesellschaft
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FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW